



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : BIR/00CN/MNR/2023/0245

Property : 121 Fourth Avenue Birmingham B9 5RG

Landlord : Amjad Hussain

Tenant : Saleban Ismail Hirsi & Fardous Abdalle Ali

Type of Application : An Application for a Determination under
Section 14 of the Housing Act 1988

Tribunal Members : Nicholas Wint FRICS
Mark Alexander MRICS

Date of Decision : 24 July 2024

STATEMENT OF REASONS

© CROWN COPYRIGHT 2024

BACKGROUND

1. The Landlord served a notice on the Tenant dated 3 November 2023 under section 13 of the Housing Act 1988 seeking to increase the rent of the Property from £825 to £1,200 per month with effect from 1 January 2024.
2. Upon receipt the Tenant made an application dated 7 November 2023 referring the notice of the proposed increase to the First-tier Tribunal Property Chamber (Residential Property).
3. The Tribunal issued its Directions dated 5 January 2024 and listed the case for a hearing on 3 May 2024 without an inspection.
4. Reply Forms were sent to the Tenant and Landlord to complete giving details of the Property and also inviting the parties to submit any other further comments and/ or documents they wish the Tribunal to take into consideration. Only the Tenant returned a completed Form to the Tribunal. In addition, the Tenant completed a Hardship Reply Form asking the Tribunal to use its discretion to defer the starting date for any rental increase.
5. Neither party requested the Tribunal inspect the Property and advised were content for the matter to proceed by way of a video hearing only. At the hearing the Landlord was represented by Mr Hussain who is a lettings manager. The Tenant's represented themselves with the assistance of an interpreter.
6. The Tenant also submitted various photographs to the Tribunal. No further written submissions were received from either party.
7. After consideration of the available evidence and the applicable law, the Tribunal determined a rent of £1,100 per month with effect from 3 May 2024 and issued its decision on this basis.
8. Upon receipt of an email dated 7 February 2023 the Tenant requested the Tribunal provide reasons. These written reasons should therefore be read in conjunction with the Decision of the Tribunal dated 3 May 2024.

THE PROPERTY

9. The Property is located in the Bordesley Green area of Birmingham.
10. It is a traditional three-bedroom terraced house that includes two living rooms, kitchen and bathroom and a rear garden. There is no off-street parking.
11. There is central heating, and the windows are double glazed.

12. No improvements have been carried out to the Property by either the Landlord or Tenant since it was first let.

EVIDENCE

13. The Tenant's Reply form stated that the Property was let unfurnished and included carpets and curtains but that they had provided the white goods (cooker, washing machine, fridge).
14. The Tenant also stated that the Property was suffering from damp and mould throughout and in support of this submitted various photographs.
15. At the Hearing the Tenant's advised they considered that the initial rent was already in excess of the market level and that they could not afford an increase given their current financial commitments. They also advised the Tribunal that the Property was suffering from mice and that the Landlord had served a section 21 Notice seeking possession of the Property. The Tenant's also advised the Tribunal that they found communicating with the Landlord to be difficult and referred to the damp and mould issues and that although this had been painted over it had returned soon afterwards.
16. The Tribunal asked the Tenant's if they had carried out any investigations into rental values for similar properties in the area and they advised they had not but advised they were aware of what rents were being paid by some of their neighbours. And to that extent were of the opinion that the market rent of the Property should be no more than £825 per month.
17. Mr Hussain, for the Landlord, advised the Tribunal that when the Property was originally let it was marketed at £995 per month as it is an end terrace and is larger than the others in the street. Mr Hussain also advised that the Landlord had not had any issues with the Tenant's previously and that the rent had not been increased for 5 years. The Landlord had tried to negotiate an increase with the Tenant's but that that had proved impossible. The Landlord was also aware of the pest issue referred to by the Tenant's and was looking into it. Mr Hussain also stated that he believed the Tenant's had not looked after the Property properly despite the Landlord having refurbished the kitchen. As regard the items of disrepair the Landlord was also dealing with these but that the mould and damp was in fact due to the Tenant's use and failure to heat the Property and to adequately ventilate the rooms concerned which has led to excessive condensation forming on the walls.
18. Mr Hussain advised that he had carried out research into rental values in the area and was of the opinion that £1,200 per month was a fair figure for the Property.

19. In support of the Tenant's request for the Tribunal to consider a Hardship application, the Tenant advised that he had limited income and simply could not afford such a large increase in rent. In response Mr Hussain advised the Tribunal that the Tenant's have a guarantor and that he had been informed that the guarantor would pay whatever is determined and owed as well as would deal with any disrepair.

THE LAW

20. Section 14 of The Housing Act 1988 states:

'(1) Where, under subsection (4)(a) of section 13 above, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy -

- (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;
- (b) which begins at the beginning of the new period specified in the notice;
- (c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates;...'

'(2) In making a determination under this section, there shall be disregarded -

- (a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;
- (b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement-
 - (i) was carried out otherwise than in pursuance of an obligation to the immediate landlord ...

21. The jurisdiction of the Rent Assessment Committee was transferred to the First-tier Tribunal (Property Chamber) from 1st July 2013.
22. In accordance with the terms of section 14 of the Housing Act 1988 the Tribunal must determine the rent at which it considers that the subject property might reasonably be expected to let on the open market by a willing landlord under an assured tenancy.

23. In so doing the Tribunal, as required by section 14(1), must ignore the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of the Act.

VALUATION

24. In reaching its determination, the Tribunal had regard to the evidence and submissions of the parties, the relevant law and their own knowledge and experience as an expert Tribunal but not any special or secret knowledge.
25. In the first instance, the Tribunal determined what rent the landlord could reasonably be expected to obtain for the Property if it were let today in the condition that is considered usual for such an open market letting.
26. The Tribunal considered all the evidence submitted but preferred the rental evidence submitted by Landlord. The Tribunal also used its own general knowledge of market rental levels in the area and had regard to its own research into rental values for similar types of property from the surrounding areas and found similar type properties that supported the Landlord's rental proposal. The Tribunal also had regard to the character of the Property as well as the location, accommodation and condition of the Property in arriving at its valuation of the Property after making some deductions for the disrepairs referred to by the Tenant.
27. There were no Tenants' improvements and so no deductions were made in this respect.
28. Taking all these factors into consideration, the Tribunal was satisfied and concluded that the likely market rental of the Property would be £1,100 per month.
29. The rent determined by the Tribunal for the purposes of Section 14 was, therefore, £1,100 per month.
30. The Tribunal then considered the Tenant's application for hardship. The Tribunal was persuaded by the Tenant's that this was a significant rental increase notwithstanding the guarantor promises to settle any increase determined and that it would cause some difficulties if the increase were to be backdated to the date in the Notice. The Tribunal was of the view that this would therefore cause undue hardship on the Tenant and consequently determined that the rental increase shall take effect from the date of the decision, that being 3 May 2024.

RIGHT OF APPEAL

31. If either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) **on a point of law only**. Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013) stating the grounds upon which it is intended to rely in the appeal.

Nicholas Wint BSc (Hons) FRICS